

ENTERED

September 02, 2020

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

COLLEEN YVONNE MAYBERRY,

Plaintiff,

v.

ANDREW SAUL,
COMMISSIONER OF THE
SOCIAL SECURITY ADMINISTRATION,*Defendant.*§
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CIVIL ACTION H-19-1239

ORDER

Pending before the court is a memorandum and recommendation (“M&R”) by Magistrate Judge Christina A. Bryan. Dkt. 18. The M&R recommends granting plaintiff Colleen Yvonne Mayberry’s (“Mayberry”) motion for summary judgment (Dkt. 12), denying defendant Andrew Saul’s (“Commissioner”) motion for summary judgment (Dkt. 13), and remanding the Commissioner’s final decision for further consideration.


Objections to the M&R were due on August 25, 2020, but no objections have been filed to date. “When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *See* Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 addition. Having reviewed the motions, responses, M&R, and applicable law, the court finds no clear error.

Nonetheless, the court would like to note and correct a minor technical issue in section II.2 of the M&R. In that section, Magistrate Judge Bryan introduces Mayberry’s argument that “the ALJ failed to incorporate into the RFC her inability to function independently in interpersonal relationships involving coworkers and supervisors.” Dkt. 18 at 7. Magistrate Judge Bryan then

cites to page five of Mayberry's motion for summary judgment, but this argument is actually made on pages one and two of Mayberry's response to the Commissioner's motion for summary judgment. *Id. Compare* Dkt. 12-1 at 5–6 (arguing that the ALJ failed to incorporate into its RFC the “inability to function independently”), *with* Dkt. 15-1 at 1–2 (arguing that the ALJ's “RFC does not incorporate a limitation related to contact with coworkers and supervisors”). Although the two arguments regard the same sentence of Dr. Williams-Markum's functional capacity opinion, they are distinct. *See* Dkt. 18 at 6. More importantly, one argument fails while the other is successful.

With this minor clarification, the M&R (Dkt. 18) is ADOPTED IN FULL, Mayberry's motion for summary judgment (Dkt. 12) is GRANTED, and the Commissioner's motion for summary judgment (Dkt. 13) is DENIED. The Commissioner's final decision is REMANDED for further consideration as set forth in the M&R.

Signed at Houston, Texas on September 2, 2020.



Gray H. Miller
Senior United States District Judge